IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

Crl.MC.No. 3246 of 2004()

ST.2/2004 of JUDL. MAGISTRATE OF FIRST CLASS-II, HARIPAD

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PETITIONER: ACCUSED:

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1. JACOB GEORGE, PANDARATHIL HOUSE,
   NADUVATTOM, PALLIPPAD P.O.

2. A.G. VIJAYA CHANDRAMENON,
   (NOMENEE OF M.V.J. FOODS INDIA PVT.LTD.)
   SINDHU VIHAR, DESOM P.O., ALUVA-683 103.

3. M.V.J. FOODS INDIA PVT.LTD.,
   U.C. COLLEGE P.O., ALUVA, ERNAKULAM DISTRICT,
   REPRESENTED BY A.G. VIJAYA CHANDRAMENON.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS: COMPLAINANT & STATE:

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1. FOOD INSPECTOR, HARIPAD CIRCLE,
   HARIPAD.

2. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 16/11/2006 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.3246 OF 2004

DATED THIS THE16TH DAY OF NOVEMBER 2006

ORDER

The retailer, nominee and the manufacturer who arraigned as accused of the offences under Section 16(1)a) (i) read with Section 2(1-a)(c), 7(1)(ii) and Rule 32(b) of the Prevention of Food Adulteration Act and Rules has sought for setting aside the proceedings on the ground that the offences alleged as per Annexure-A complaint filed stands disproved vide Annexure-B certificate of analysis of the Central food Laboratory. As per the finding of the Central food Laboratory, adulteration has been totally ruled out. The only observation against the petitioners is that the vegetarian food symbol was not displayed and thereby violated Rule 42 ZZZ(17) of the Prevention of food Adulteration Rules, 1955.

2. I find that the allegation in the complaint filed by the Food Inspector is that the sample is misbranded and also contained not less than 15% by weight sodium chloride as a filler and hence adulterated the misbranded . It is pointed out by the counsel for the petitioners that the particular specification that is under Rule 42 ZZZ (17) of the Rules was incorporated in the statute as per GSR 908 E dated 20-12-

2001 with effect from 20-6—2002. The period of manufacture is November 2002. The sample was taken on 7-1-2003. It is submitted that immediately after the amendment when it came to the notice of the manufacturers, the particular symbol as specified by Rule 42 ZZZ (17) has been printed on the cover. The petitioners have also produced one such cover before the court.

2. In the circumstances, I find that the major allegations that the sample was adulterated stands disproved from the Chemical Analyst's certificate by the Central food Laboratory. The gap between the date of manufacture and the date of coming into effect of the notification is just six months and odd. At best, it is only a technical offence that has been committed. In the circumstances, I find that the situation envisaged under Section 95 I.P.C. is attracted. Hence the proceedings pending as S.T.No.2/2004 in the file of the Judicial First Class Magistrate Court-II, Harippad against the petitioner is herewith quashed. The Crl.M.C.is allowed.

K.R.UDAYABHANU, JUDGE

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